

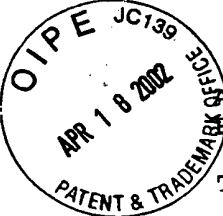
PCT application Number FR99 / 01246

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Assistant Commissioner for Patents  
Box PCT Washington, DC 20231 U.S.A.To the attention of the PCT Legal Office  
(Legal Examiner Bori Milef and PCT  
Petitions Attorney Richard M. Ross)

4 pages / Chronopost

April 15, 2002

Subject: the dismissal without prejudice of my petition to  
revive under 37 CFR 1.137(a)

Dear sirs,

This letter is in reply to your notification dated Feb. 20, 2002, that my petition to revive has been rejected for insufficient evidence that I was "reasonably prudent" when I trusted the assurances of the special delivery service Chronopost International that it made deliveries to Washington, D. C. within 3 days.

Also enclosed is the "Guide Pratique" (Practical Handbook) of the French express-delivery company Chronopost International. It contains Chronopost's official information - postal prices, delivery speeds, and Chronopost's responsibility in case of delivery delays or loss of mail, etc. :

- on page 40 concerning North America  
beneath a picture of the envelopes for express mail to the United States :

- "Delivery in 1 to 2 days in the main cities of the United States, Canada and Mexico (\*)"

- \* (footnote on page 41) : "The indicated delivery times are the average indicative times, according to the modalities defined on page 12."

(page 12) : "The international delivery times are indicated on pp. 51 to 66.

...  
In the case of international express deliveries, the required time means from when we take charge on Monday to Friday, not including deliveries undertaken on Saturday, in which case the number of days is counted starting on the following Monday. Mail is delivered on business days, except holidays when offices are closed in the the country of destination... "

The Chronopost handbook does not give an absolute assurance of delivery to Washington D.C. within 3 days. But the manual is even more reassuring than that : for it asserts that the average express delivery to the U.S. capital takes only 1 day. And not only for delivery to Washington, but also to New York, Chicago, Miami, Houston and Dallas (plus average delivery time of just 2 days to Los Angeles, San Francisco, and other cities in the 48 states, and 2 to 3 days to Hawaii or Alaska).

- on pp. 52 to 65, tables specify the average number of days needed to send mail from France to cities abroad ;

COUNTRY	CITIES SERVED	AVERAGE INDICATED TIME REQUIRED		SPECIAL REQUIREMENTS 1 : Main categories forbidden to import
		For documents	For Merchandise	
UNITED STATES	New York (Manhattan)	1 day	2-3	1: no important ban
	Chicago, Houston, Miami,			
	Washington D.C., Dallas,			
	Los Angeles, San Francisco	2	2-3	
	Alaska, Hawaii	2-3	2-4	
	other destinations	2	2-3	
ETHIOPIA	Addis Ababa	4-5	5-6	1: liquor, personal
	Other desintations	5-6	5-7	belongings, medicine without prescription
JAPAN	Tokyo, Osaka	2	2-3	
	Other destinations	2-3	2-4	

- pages 88-89 (General stipulations concerning our service)  
section 7 - RESPONSIBILITY for loss, damage or delays

#### Delays :

In the case of international express deliveries, the required time means from when we take charge on Monday to Friday, not including deliveries undertaken on Saturday, in which case the number of days is counted starting on the following Monday. Mail is delivered on business days, except holidays when offices are closed in the the country of destination...

In case a delivery has been delayed by some fault of Chronopost, then Chronopost commits itself to pay an indemnity that cannot exceed the transportation cost, after a written request by the sender (artical 22.3 of the standard contract - decree No. 99-269 of April 6, 1999).

Compensation for harmful results :  
CHRONOPOST shall not be required to pay compensation for immaterial or indirect harm, no matter what was the cause.

My document was posted on Monday, Nov. 20, 2001. So it should have arrived on Nov. 23 at the latest, but it took Chronopost 2 or 3 days to deliver in Washington instead of the 1 day indicated on page 56 of Chronopost's handbook. \*

Even if it took 7 days, including Thanksgiving Thursday and Sunday, the envelope should have been delivered on November 27, before the time limit set by the patent office. But the document was never delivered at all, "because of some problem" encountered by Chronopost's U.S. sub-contractor TNT International, I was informed. (Recently, a Chronopost representative told me that his company has stopped working through TNT because TNT "caused too many problems".)

Chronopost acknowledged that it was at fault by reimbursing the transportation fee as an indemnity. (See the color photocopy mailed to you previously of the indemnification letter and check.)

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\* Thursday Nov. 23 was the Thanksgiving national holiday in the United States. That was perhaps the origin of the failure to deliver my document, followed by Chronopost's returning it to me, stating that the intended receiver had been notified of the envelope's arrival but did not come to get it. Here is a possible explanation:

If TNT tried to deliver the envelope on Thanksgiving Day and found your office closed, the delivery employee probably shoved a notice in your mail box or under your door that TNT had an envelope for you. And then TNT neglected to deliver the envelope the next day as an express delivery service is supposed to do.

Nobody in France could imagine that Chronopost subcontracted to sloppy outfits abroad. Because Chronopost is highly touted by the French Post Office, which has the good reputation of delivering letters anywhere in France within 24 hours. And Chronopost claims to do even better: "Your express deliveries reach their receiver between 8 and 12 o'clock the day after they are posted, anywhere in France ..." (page 17 of the Chronopost handbook). Posters advertizing Chronopost are on display inside every French post office.

When anybody sends a package or bulky envelope at a French post office for France or abroad, the postal clerk usually suggests using Chronopost (for some extra postage) to assure even swifter service.

The handbook boasts that Chronopost has "300 sites located in 15 countries" and "handles 56 million express deliveries a year" (page 5). "Throughout the world, thanks to our alliance with FedEx, Chronopost International has at your service a powerful integrated organization, a fleet of 640 planes and 45 000 vehicles operating out of 325 airports connected by 13 major hubs." (page 73)

In France, it is not at all considered imprudent to entrust a delivery to Chronopost, founded in 1988. It is by far the best known express delivery service, rather expensive, and is reputed to be reliable. It works in cooperation with the national postal system. All French post offices feed Chronopost with letters and packages for express delivery.

So I think I was "reasonably prudent" to entrust my delivery to Chronopost, which is trusted, and even favored by the reliable French postal service. Since Chronopost claims that its average delivery time is only 1 day to Washington, D.C. or Dallas, and only 2 days to San Francisco, one could assume that the envelope would at least arrive the same week. Nobody would expect that it would never be delivered at all, and would be returned to the sender.

### Conclusion

The leading express delivery services generally respect the average delivery times promised in their advertizing, as far as I know, though probably none of them gives an absolute guarantee of delivery time.

It usually takes Chronopost only 1 day to deliver a document from France to Washington, according to its handbook. The average time to Hawaii or Alaska is only 2 to 3 days.

I wanted to make sure that my document would be in the very good hands of a highly specialized organization, and arrive with plenty of time to spare. Therefore I paid about 10 times more to send by Chronopost than by the reliable French public post office. So was my delivery request not arranged with as much "care or diligence as is generally used and observed by prudent and careful men in relation to their most important business" ?

- A customer like me who posted a document for Washington on Nov. 20 could be confident that it would surely be delivered before Nov. 28.
- The botched handling that prevented that delivery forced me to resend the document after a delay that nobody could foresee, and that I could not avoid (since Chronopost did not inform me of its delivery failure until after your deadline had expired).

I thank you in advance for taking into consideration the facts pointed out in this letter.

Sincerely yours,

Vincent Sebileau

